

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA

ORDER

Before the court is the unopposed motion to withdraw the reference of plaintiff Sue Dell James and defendant Baer & Timberlake, P.C.. It is represented that defendants Deutsche Bank Trust Company Americas and Ocwen Loan Servicing, LLC do not oppose the motion. The bankruptcy court has also issued a Report and Recommendation, recommending withdrawal of the reference.

Withdrawal of the reference is mandatory “if the court determines that resolution of the proceeding requires consideration of both title 11 and other laws of the United States regulating organizations or activities affecting interstate commerce.” 28 U.S.C. §157(d). “The Tenth Circuit has not considered what standard applies for mandatory withdrawal of the reference.” *In re Wahl*, 2012 WL 5199630, *2 (N.D.Okla.2012). “The leading case on this issue is *In re Matter of Vicars Ins. Agency, Inc.*, 96 F.3d 949 (7th Cir.1996), in which the Seventh Circuit held that mandatory withdrawal is required when there are ‘substantial and

material' issues of non-bankruptcy law that must be resolved." *Id.* This standard appears to be met in the case at bar.

It also appears that a request for jury trial as to some issues has been made. In Local Civil Rule 84.1(h), this court specifically designates the bankruptcy court to conduct jury trials. This designation, however, is made pursuant to 28 U.S.C. §157(e), which requires express consent of all the parties. Such consent does not appear in the present record. Therefore, this too represents a ground for withdrawal of the reference.

It is the order of the court that the motion to withdraw the reference (#3) is hereby granted. The Report and Recommendation of the bankruptcy court (#4) is affirmed.

ORDERED THIS 14th DAY OF AUGUST, 2017.



RONALD A. WHITE
UNITED STATES DISTRICT JUDGE